IN THE HIGH COURT OF BOMBAY AT GOA

APPEAL FROM ORDER NO. 64 OF 2006

SMT. SHRIMATI NARAYAN AMONKAR AND ANR., ...Appellants

Versus

FERICEM ENGINEERING COMPANY PVT.LTD.REP.BY ITS DIRECTOR MR. RAFIK SATTAR CHOWHAN,CARANZALEM GOA. ....Respondent

Ms. Susan Linhares, Advocate for the appellants.

Mr. A. D. Bhobe, Advocate for the respondent.

Coram:- P.V. KAKADE, J.

Date:- 6th December, 2006

P.C.

Heard learned Counsel for both the parties. Perused the record.

The appellants-defendants have challenged the order passed by the Civil Judge, Sr. Division at Mapusa granting temporary injunction against them on the application made by the plaintiff in a suit for perpetual and mandatory injunction, in which the plea of the plaintiff regarding temporary mandatory injunction came to be rejected.

In the course of hearing of the matter, it was apparent that the appellants-defendants have come with a plea that they are tenants in respect of the disputed property and the learned trial Judge has negatived the said contention so far as prima facie aspect in the temporary injunction application is concerned. However, it is to be noted that the appellants-defendants have also filed a counter-claim in the suit, taking the same plea. Therefore, it is needless to mention that the

appellants-defendants would have ample opportunity to prove their claim by due process of law. Under the circumstances, no purpose would be served if this matter is decided on merits at this stage while the suit is pending. Intead of this, it would be in the interest of both the parties to expedite the hearing of the suit wherein counter-claim would also be determined on merits as per law.

Therefore, it view of this aspect, it is directed that the trial Court shall expedite the hearing of suit itself along with the counter-claim so as to give opportunity to both sides to lead their respective evidence and adjudicate the entire dispute on merits within one year from the date of receipt of writ of this Court. With this direction, the appeal stands disposed of with no order as to costs.

P.V. KAKADE, J.

ssm.